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Readings and Materials

for

Economic Analysis of Law

Fall 1997

Professor Samuel A. Rea, Jr.

Volume 2

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Economic Analysis of Law

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1997-98

Professor S. Rea

The following books will be referred to:

Richard Posner, Economic Analysis of Law, (Boston: Little Brown, Fourth Edition, 1992)

Robert Cooter and Thomas Ulen, Law and Economics, Addison-Wesley, 1997.

William M. Landes and Richard A. Posner, The Economic Structure of Tort Law (Cambridge, Mass., Harvard University Press, 1987).

Course Requirements: Final Examination (80%)
Class participation (20%)

VOLUME I

I. Introduction

Posner, pp. 3-18, 21-27.

II. Property Rights

A. The Common Pool and Allocation of Rights

H. Scott Gordon, "The Economic Theory of a Common Property Resource: The Fishery", Journal of Political Economy, 62 (April 1954) pp.124-142, also in Dorfman and Dorfman, pp. 130-141.

Cooter and Ulen, pp. 69-110, 146-149

Terry L. Anderson and Peter J. Hill, "The Race for Property Rights", Journal of Law and Economics 33 (April 1990), 177-197.

"Prospectors Stake Claims in Temegami", *Globe and Mail*, April 4, 1990.

B. Applications

Cooter and Ulen, pp. 111-138

C. Externalities and the Coase Theorem: The Case of Nuisance

Ronald Coase, "The Problem of Social Cost", Journal of Law and Economics, 3, (October 1960), pp.1-44, also in Robert Dorfman and Nancy S. Dorfman, Economics of the Environment, W. W. Norton & Co., Second Edition, 1977, pp. 142-171.

Cooter and Ulen, pp. 138-146, plus 181-185 from old edition.

Guido Calabresi and A. Douglas Melamed, "Property Rules, Liability Rules, and Inalienability: One View of the Cathedral", Harvard Law Review, 85 (1972), pp. 1089-1128. Also in Bruce Ackerman, Economic Foundations of Property Law, Little Brown, 1975 pp. 31-48.

Arthur Hoppe, "A Licence to Steal", in Bruce Ackerman, Economic Foundations of Property Law, Little Brown, 1975, pp. 49-50.

D. Expropriation

Cooter and Ulen, pp. 149-155.

Jack Knetsch and Thomas E. Borcherding, "Expropriation of Private Property and the Basis for Compensation", University of Toronto Law Journal, 29 (Summer 1979), pp. 237-252.

E. Rescue

William M. Landes and Richard A. Posner, "Salvors, Finders, Good Samaritans, and Other Rescuers: An Economic Study of Law and Altruism", Journal of Legal Studies, 7,1 (January 1978), pp. 83-128.

III. Torts

A. Liability Rules

Cooter and Ulen, pp. 270-290.

Steven Shavell, Economic Analysis of Accident Law, (Cambridge, Mass.: Harvard University Press, 1987) pp. 5-36. (Care and activity levels)

Landes and Posner, pp. 85-122. (Basic Principles, ultrahazardous activities)

Landes and Posner, pp. 4-24. (Criticisms)

Marcel Kahan, "Causation and Incentives to Take Care Under the Negligence Rule" Journal of Legal Studies 18 (June 1989) 427-447.

Landes and Posner, pp. 131-139. (Custom)

Helling v. Carey, 519 P.2d 981 (Wash 1974).

David M Eddy, et al. "The Value of Screening for Glaucoma With Tonometry" Journal of Ophthalmology 28 (Nov.-Dec 1983), 194 only.

Rothwell v. Raes, 66 O.R.(2d) 449 (H.C. 1988).

Landes and Posner, 260-272. (Causal uncertainty)

B. Damages in Personal Injury Cases and the Value of Life

Posner, pp. 191-202.

Samuel A. Rea, Jr., "Compensation for Personal Injury and Death: An Economic Perspective", Report Prepared for Ontario Law Reform Commission, December 31, 1986.

Nielsen v. Kaufmann, 28 C.C.L.T. 54 (Ont. S. C. 1984); 54 O.R. (2d) 188 (C.A. 1986).

Martin J. Bailey, Reducing Risks to Life, American Enterprise Institute (1980), pp.28-47.

Euston Quah and William Rieber, "Value of Children in Compensation for Wrongful Death", International Review of Law and Economics 9 (December 1989), 165-179.

VOLUME II

IV. Alternatives to Tort Compensation

S. A. Rea, Disability Insurance and Public Policy, (Toronto: University of Toronto Press, 1981), pp. 3-38.

"Applying the Brakes", Supply and Services Canada, *Bulletin*, July 1991, 1-2.

Samuel A. Rea, "Economic Analysis of Fault and No-Fault Liability Systems", Canadian Business Law Journal, 12 (May 1987), 444-472.

Rose Anne Devlin, "Some Welfare Implications of No-Fault Automobile Insurance", International Review of Law and Economics , 10 (Sept 1990), 193-205.

Price V. Fishback, "Liability Rules and Accident Prevention in the Workplace: Empirical Evidence from the Early Twentieth Century", 16 Journal of Legal Studies (June 1987), 305-328.

Materials on Ontario Automobile No Fault (Bill 164)

V. Contracts

A. Introduction

Posner, 89-117.

Anthony T. Kronman, "Mistake, Disclosure, Information and the Law of Contracts", Journal of Legal Studies, 7, (January 1978), pp. 1-34.

Green v. Holiday Chevrolet-Oldsmobile, 55 D.L.R. (3d) 637 (Man.C.A. 1975).

Steven Shavell, "Acquisistion and Disclosure of Information Prior to Economic Exchange", Rand Journal of Economics, 25 (Spring 1994), 20-36.

Cornwall Gravel Co. Ltd. v. Purolator Courier Ltd. 83 D.L.R.(3d) 267 (Ont. H. C. 1978).

Anthony T. Kronman and Richard A. Posner, "Note on Paternalism", in Anthony T. Kronman and Richard A. Posner, The Economics of Contract Law, (Boston: Little Brown, 1979), pp. 253-260.

B. Remedies

Posner, 117-134.

Anglia T.V. Ltd. v. Reed (1972) 1 Q.B. 60 (C.A.).

Victor Goldberg, "The Lost-Volume Seller Puzzle", in Readings in the Economics of Contract Law, Victor Goldberg, ed., pp. 105-119.

Lazenby Garages Ltd. v. Wright [1955] Ch. 177, [1955] 1 All E. R. 154.

Nobs Chemical v. Koppers, 616 F. 2d 212 (5th cir, 1980).

Samuel A. Rea, "Damages for Buyer Breach", International Review of Law and Economics, 6, June 1986, pp. 77-86.

Samuel A. Rea, "Inflation and the Law of Contracts and Torts", Ottawa Law Review, 14, December 1982, pp. 465-480.

McDermid v. Food-Vale Stores (1972) Ltd. 117 D.L.R.(3d) 483.

Samuel A. Rea, "Efficiency Implications of Penalties and Liquidated Damages", Journal of Legal Studies, 13, (January 1984), pp. 147-167.

H.F. Clarke Ltd. v. Thermidaire Corp. Ltd., 54 D.L.R. (3d) 385 (S.C.C. 1974).

VI. Consumer Protection

A. Product Liability

Cooter and Ulen, pp. 290-292.

Landes and Posner, pp. 273-311.

S. A. Rea, "Non-Pecuniary Loss and Breach of Contract", Journal of Legal Studies, 11, 1 (January 1982), pp. 35-53.

Jarvis v. Swans Tours Ltd. [1973] 1 All E.R. 71 (C.A.)

B. Personal Bankruptcy

William H. Meckling, "Financial Markets, Default, and Bankruptcy: The Role of the State", Law and Contemporary Problems 41 (Autumn 1977), 13-29 only.

Thomas H. Jackson, The Logic and Limits of Bankruptcy Law (Cambridge, Mass: Harvard University Press, 1986), 225-279. [edited]

S. A. Rea, "Arm-Breaking, Consumer Credit and Personal Bankruptcy", Economic Inquiry, (April 1984), pp. 188-208.

VII. Family Law

S. A. Rea, "Breaking Up is Hard to Do: The Economics of Spousal Support", 1994.

SCHEDULE

September 9	Introduction
September 16	Property Rights
September 23	Nuisance
September 30	Expropriation and Rescue
October 7	Tort Liability Rules
October 14	Causation, Custom, Assumption of Risk
October 21	Damages
October 28	Alternatives
November 4	Contracts
November 11	Remedies
November 18	Product Liability
November 25	Bankruptcy
December 2	Family
December 10	EXAMINATION